

REMARKS

The response filed on July 28, 2003, was intended by Applicant to be fully responsive to every ground of rejection and every objection set forth by the Examiner in the Office Action. Although Applicant responded to the Examiner's rejection of claims 1-4, 8, 9, 12-14, 16, and 30-39, under obviousness-type double patenting, by stating that the instant application is a divisional of U.S. Patent No. 6,033,883, and both are commonly owned by Kosan Biosciences, and therefore a Terminal Disclaimer is proper to overcome the obviousness-type double patenting rejection, Applicant inadvertently omitted the Terminal Disclaimer. Accordingly, enclosed is a Terminal Disclaimer along with authorization to charge the statutory disclaimer fee of \$55.00 to Deposit Account No. 03-1952. Applicant respectfully requests entry of the Terminal Disclaimer into the record by the Examiner.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 300622001610.

Respectfully submitted,

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